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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,880	11/30/2000	Chyi-Cheng Chen	20223 US (C38435/120240)	1470
7590 05/25/2007 STEPHEN J. BROWN, ESQ. BRYAN CAVE LLP 1290 AVE. OF THE AMERICAS 33rd floor NEW YORK, NY 10104			EXAMINER CHANNAVAJJALA, LAKSHMI SARADA	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 05/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claims 1, 3-15 and 17 are pending in the instant application.

In response to the applicants' inquiry (see interview summary attached herewith) regarding the lack of rejection of claims 3-6 in the last office action dated 3-8-07, the previous action of 3-8-07 has been withdrawn and the following rejection is applied to the instant claims:

35 U.S.C. 103 Rejections

1. Claims 1, 7-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/42134 (WO).

Instant claim 1 is directed to a powder composition comprising at least one fat-soluble vitamin in a matrix consisting of an emulsion-forming composition, wherein the fat-soluble vitamin is present in the powder composition in the form of solid droplets having an average diameter of about 80 to 120 nanometers. The claimed matrix is selected from the group consisting of proteins and polysaccharide gums.

WO teaches a spray dried tabletable powders comprising high edible oil loadings based on non-hydrolyzed gelatin and a method of making such spray dried tabletable powders, with a droplet size of less than 0.8 microns (page 5-6), preferably 0.05 to 0.8 microns (page 6, L 6-8). WO teaches edible oils include vitamins such as vitamin A, Vitamin E etc (page 6, L 23-42). Further, WO teaches 40%-90% edible oil and 10-60% gelatin in the composition, which percentages overlap with the claimed percentages of vitamin and matrix (claim 14). While WO teaches the same fat-soluble vitamins, same protein and the droplet size of the fat-soluble materials in the range of 0.05 to 0.8 microns (50 to 800 nm), WO does not teach the exact range of the claimed

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powders. However, WO teaches that the vitamin powders can have a size as low as 50 nm and as high as 800 nm. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to optimize the size of the droplets or vitamin powders and still achieve the same high loading of oil soluble vitamins so as to prepare a tabletable preparation. Further, optimizing the amounts and ratios of vitamin and gelatin to arrive at the claimed ratios would have been within the scope of a skilled artisan.

2. Claims 1, 3-7, 9, 11-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/42134 (WO) in view of EP 937412 (EP '412).

WO, discussed above, teach gelatin as a base for the preparation of spray-dried tablets. However, WO does not teach the claimed polysaccharides of the instant gums.

EP '412 teaches finely divided pulverous carotenoids preparations formed by suspending the active ingredient in an organic solvent, feeding the suspension to a heat exchanger, rapidly mixing with a swellable colloid. EP teaches the particle size such as 213 nm, 225 nm or 400 nm. Among the colloids, EP teaches gelatin, starch, gums, pectin etc (col. 3, L 1-7) and in particular, gum arabic of claims 3-6.

It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to prepare the tabletable powders of WO by incorporating colloids such as polysaccharide gums such as those taught by EP because EP suggests colloids such as gelatin and gums as equivalent in preparing vitamin powder preparations.

Accordingly, absent any unexpected advantage, it would have been within the scope of

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a skilled artisan to optimize the amounts of vitamins and colloids, based on the colloid employed, so as to prepare vitamin powder preparations with the claimed particle sizes.

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 12-22-06 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

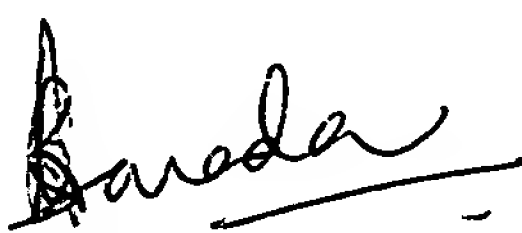
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 7.00 AM -4.00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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May 22, 2007


LAKSHMI S. CHANNAVAJALA
PRIMARY EXAMINER